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July 1, 2011

VIA REGULAR MAIL AND E-MAIL

Kristi Izzo, Board Secretary
Board of Public Utilities
Attention Docket No.: EX11020089
Two Gateway Center
Suite 801
Newark, NJ 07102

**Re: FirstEnergy Solutions Corp.
Readoption with Amendments of N.J.A.C. 14:4, May 2, 2011
Docket No.: EX11020089**

Dear Secretary Izzo:

We represent FirstEnergy Solutions Corp. ("FES") in connection with the rulemaking associated with the proposed Re-adoption with Amendments of the Energy Competition Standards found in N.J.A.C. 14:4. On FES's behalf, we enclose an original and ten copies of FES's comments in response to the publication of the Re-adoption with Amendments of N.J.A.C. 14:4 in the New Jersey Register on May 2, 2011.

By way of background, FES is a subsidiary of FirstEnergy Corp. and provides wholesale and retail energy and related products primarily to customers located in the Mid-Atlantic and Mid-West Regions. In addition, FES is a licensed third-party supplier ("TPS") in New Jersey authorized by the New Jersey Board of Public Utilities ("Board") to serve retail customers in the State. FES is one of the nation's leading retail suppliers for large commercial and industrial customers, small commercial and residential customers, and municipal aggregations and, as such, has an abundance of experience with regard to competitive electric supply.

FES believes retail competition is active in New Jersey and that the inclusion of the enclosed proposed amendments and comments in the Final Rules will (1) improve market efficiency which will lower costs incurred by a TPS and therefore passed along to its customers; (2) preserve a sufficient level of protection for New Jersey energy consumers; (3) render New

Jersey a more attractive market for a TPS which will increase the number of TPS serving customers in the State.

FES offers comments on a number of subsections proposed for re-adoption contained within N.J.A.C. 14:4. These comments touch on change order requirements, electronic switching and signing up of customers, requirements applicable after license is issued, and termination of a residential contract by a TPS. All of the comments and recommendations offered are equally important to FES, however, FES would like to draw the Board's attention in particular to its concerns related to government energy aggregation programs.

Specifically, FES does not support the addition of subsection N.J.A.C. 14:4-6.3k, which allows a residential consumer the right to "opt-out" at any time upon thirty (30) days notice. This section effectively renders the requirement for the initial "opt-out" or "opt-in" period almost meaningless at the same time as it erodes some of the more fundamental benefits that arise from aggregated buying. Aggregation is only a benefit to the extent a supplier knows it will capture a significant amount of load at one time, and that load is reasonably certain to remain with the supplier. If customers are given the option to easily exit the aggregation, *i.e.* beyond the initial "opt-out" timeframe, then a TPS must include the risk of exit in the pricing to the aggregation.

Proposed subsection N.J.A.C. 14:4-6.3k will limit the pricing benefits a customer may be able to realize through an aggregated buying option. If this subsection is approved, FES recommends that it be revised to allow a TPS to charge reasonable termination fees to customers who opt-out after the initial period has elapsed. This reasonable termination fee will compensate the TPS for risk assumptions made to develop its bid for an aggregation. If such termination fee is not allowed, all customers will end up subsidizing an option that is likely to be exercised only by a few, and the lower rates often associated with aggregated buying may not be fully realized in New Jersey. This is a serious concern of FES and likely other TPS, and while it is more fully addressed in the enclosed comments, it is necessary to draw the Board's attention to those comments in this transmittal letter.

In a similar vein, FES recommends that the respective periods prior to full acceptance of a TPS bid be shortened to the extent reasonably possible under subsection N.J.A.C. 14:4-6.6. The regulations that are currently up for re-adoption provide a very long lead time which exposes a TPS to a great degree of market risk. If the timeframe between bidding and enrollment under Option 2 Aggregation is shortened, the pricing risk to the TPS is minimized, and consequently, the risk premium that a TPS must pass on to the customers is likewise minimized. The overall result will help aggregation programs to more fully realize the beneficial pricing aggregated buying can offer and make aggregations a more viable competitive supply option in New Jersey.

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On behalf of FES, we appreciate the opportunity to file the enclosed comments on the proposed re-adoption. It is FES's intent that these comments and recommendations will only serve to drive competition in New Jersey while maintaining protection for New Jersey energy customers.

Respectfully,

COZEN O'CONNOR



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Enclosures

cc: rule.comments@bpu.state.nj.us